

ORIGINAL  
FILE ORIGINAL

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

RECEIVED

JUN 11 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Part 90 of the )  
Commission's Rules to Eliminate )  
Separate Licensing of End Users )  
of Specialized Mobile Radio Systems )

PR Doc. No. 92-79 ✓

To: The Commission

COMMENTS  
OF THE  
SPECIAL INDUSTRIAL RADIO SERVICE ASSOCIATION, INC.  
AND  
THE COUNCIL OF INDEPENDENT COMMUNICATION SUPPLIERS

The Special Industrial Radio Service Association, Inc. (SIRSA) and the Council of Independent Communication Suppliers (CICS), pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission (Commission), hereby respectfully submit these Comments in response to the Notice of Proposed Rule Making (Notice) adopted by the Commission on April 9, 1992 in the above-styled proceeding.<sup>1/</sup>

**I. PRELIMINARY STATEMENT**

1. The Special Industrial Radio Service Association, Inc., a non-profit association organized under

---

<sup>1/</sup> Notice of Proposed Rule Making, FCC 92-172, PR Docket No. 92-79, 57 Fed Reg. 20070 (May 11, 1992).

No. of Copies rec'd 0+11  
List A B C D E

the laws of the District of Columbia, is the Commission's certified frequency coordinator for the Special Industrial Radio Service and the Industrial/Land Transportation 800/900 MHz frequency "pools." SIRSA also coordinates channels from the general access pool for those entities (a) eligible to become Industrial/Land Transportation licensees, (b) wishing to expand trunked systems, or (c) consolidating conventional systems into a trunked system. SIRSA coordinates in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate radio stations on frequency assignments allocated to the Special Industrial Radio Service and the enumerated 800/900 MHz frequency "pools."

2. SIRSA enjoys the support of a membership that includes more than 12,000 licensed two-way land mobile radio communications users and the following trade associations:

- Alliance of Motion Picture and Television Producers
- American Iron Ore Association
- American Mining Congress
- Associated Builders & Contractors, Inc.
- Florida Citrus Processors Association
- Florida Fruit & Vegetable Association
- National Aggregates Association
- National Agricultural Aviation Association
- National Food Processors Association
- National Propane Gas Association
- National Ready-Mixed Concrete Association
- National Utility Contractors Association
- New England Fuel Institute
- Petroleum Equipment Suppliers Association
- United States Telephone Association

3. The Council of Independent Communication Suppliers is an association of entities engaged in serving the needs of private radio eligibles, particularly those located in small and rural communities throughout the United States. CICS' membership is open to Specialized Mobile Radio (SMR) operators, radio dealers, equipment suppliers, and consultants. CICS was formed to provide these entities a voice in the policy-making process governing use of the electromagnetic spectrum, especially spectrum allocated to the Private Land Mobile Radio Services.

## II. BACKGROUND

4. The Commission proposed in its Notice to eliminate the dichotomy in licensing 800/900 MHz SMR systems,<sup>2/</sup> and permit the SMR operator to hold the

---

<sup>2/</sup> In the 800/900 MHz bands, the licensing of Specialized Mobile Radio (SMR) systems is some what different than the licensing of Industrial/Land Transportation, Business, and Public Safety systems. The SMR operator holds an FCC authorization for operation of mobile relay facilities operating on frequencies in the bands 851-869 MHz or 896-901 MHz. The mobile and control stations operating on the SMR system are authorized to the individual employing the SMR services (the end user). On the other hand, non-SMR licensees may hold separate licenses for the base station/mobile relay facilities and the associated mobiles operating on these systems. The total number of mobiles operating on the system are aggregated on one license and the operator of the system generally holds the license and is responsible for operation of the mobile and control stations operating on its system.

authorization for its system, including the mobile and control station operating on the system. The SMR operator would be responsible for ensuring that its end users' operation of the mobile and control stations is in compliance with the Commission's rules, as well as the regulations of other agencies such as the Federal Aviation Administration.

5. Additionally, the Commission proposed to eliminate the loading reports required to be filed by SMR licensees on an annual basis and at renewal of their authorizations. In lieu of these reports, the Commission will require SMR licensees to submit loading data when they seek either (1) to expand the existing system or establish a new SMR station within 40 miles of one or more of their existing SMR systems or (2) to renew trunked system authorizations in a wait-list area at the expiration of the initial five year term when the systems were authorized prior to June 1, 1993.

6. The loading data submitted is to reflect the average number of mobiles and control stations operating on the licensee's system on the first business day of the month for the six month period immediately preceding the filing of the associated application. This average is to be

calculated based on the licensee's business records during the applicable six month period.<sup>3/</sup> The licensee would not be required to submit the business records on which its figures were based unless a question arose as to the accuracy of the reported loading level. Apparently, the Commission would require licensees to submit the underlying business records should verification be required. However, the proposed rules do not incorporate such a requirement.

7. Finally, the Commission proposed to exempt the trunked SMR licensees from the requirement of Section 90.135(a)(5) so that they would not have to modify their authorizations when the number or location of mobile or control transmitters change. A conventional SMR licensee, however, would not be exempt from this requirement because the channels utilized by these licensees are not necessarily

---

<sup>3/</sup> The Commission did not address the issue of calculating mobile loading where the end users subscribe to more than one SMR system to obtain dispatch/interconnect service. Under the current rules, a mobile unit may be allocated for loading purposes to only one SMR system even though the end user authorization permits operation on one or more SMR systems. In most cases, the end user is charged by the SMR operator(s) for the operation of the mobile on each of the systems. Thus, one mobile unit could be utilized by several SMR operator or one SMR operator for several systems, and allow each SMR operator(s) to skew its "average" mobile use of the systems for a six month period and still be in compliance with the Commission's rules. The Commission may wish to address whether such duplication in calculating mobile use is appropriate.

assigned on an exclusive basis to the SMR licensee. The number of mobile units and location of control stations operating on the frequency pair assigned are essential elements in the coordination and assignment of the frequency pair to other licensees.

8. SIRSA and CICS generally support the Commission's proposal decision to eliminate the additional licensing and reporting requirements currently stipulated in connection with SMR operations. Nevertheless, SIRSA and CICS do wish to suggest several additional requirements be imposed on SMR operators to ensure that all licensees in the 800/900 MHz bands are treated in an equitable manner.

### III. COMMENTS

9. SIRSA and CICS applaud the Commission's initiative to eliminate unnecessary administrative regulations. We welcome any revisions to the Commission's rules that eliminate burdensome and unwarranted paperwork and that increase the effectiveness and efficiency of the Commission's application processing. On the other hand, we urge the Commission to recognize that the lure of additional spectrum in this extremely competitive industry may tempt otherwise law-abiding SMR licensees to use less than

exacting methods in determining their mobile loading. Therefore, SIRSA and CICS recommend the Commission adopt several additional requirements in this proceeding to discourage "creative" calculations of mobile traffic on SMR systems.

10. The Commission said that it would allow SMR licensees to enter their loading data on the "appropriate application form" when applying for expansion of existing systems for new systems within 40 miles of an existing system(s), or applying for renewal of a trunked system in a wait-list area. The Commission, however, did not clarify if this application form is the current FCC Form 574 or whether the agency intends to create a new form specifically for SMR applications. In either event, SIRSA and CICS urge the Commission to require any assertions regarding loading data be sworn and signed to under the penalty of perjury.

11. Additionally, SIRSA and CICS recommend that the Commission implement a penalty to impose on any operator, who willfully misrepresents loading data or who fails to provide the Commission the underlying business records when requested, in addition to the sanctions available under the Communications Act of 1934, as amended, and prosecution under Section 1001 of Title 18 of the United States Code.

Should loading data be inaccurate and the application for expansion of a system, for a new station, or renewal of a system be dismissed or withdrawn, the SMR operator should be prohibited from applying for additional channels to expand the system or establish a new station at the same proposed site for a period of six months.<sup>4/</sup> The adoption of this penalty should be an adequate deterrence to most operators since it has an immediate effect and has a direct impact on the profitability of the SMR system.

#### IV. CONCLUSION

12. SIRSA and CICS support the Commission's efforts to eliminate burdensome administrative regulations, but feel that the Commission must continue some oversight of the distribution and assignment of additional spectrum to SMR operators. Accordingly, SIRSA and CICS suggest that the loading data be attested to and signed under penalty of perjury and that the SMR operator be penalized should the operator willfully submit inaccurate loading data or refuse to submit to the Commission additional documents to substantiate a loading report.

---

<sup>4/</sup> Section 90.631(b) of the Commission's rules has a similar provision. (A licensee who fails to meet the established requisite loading standard under Section 90.631(b) and has one or more channel recovered by the Commission may not request additional channels to expand the system for a period of six months.)



WHEREFORE, THE PREMISES CONSIDERED, the Special Industrial Radio Service Association, Inc. and the Council of Independent Communication Suppliers respectfully requests the Federal Communications Commission take action in this proceeding in a manner consistent with the views expressed herein.

Respectfully submitted,

**SPECIAL INDUSTRIAL RADIO SERVICE  
ASSOCIATION, INC.**

By: 

Mark E. Crosby, President and  
Managing Director

**COUNCIL OF INDEPENDENT  
COMMUNICATION SUPPLIERS**

By: 

Andrew Daskalakis, Chairman

Of counsel:

Wayne V. Black  
Terry J. Romine  
Keller and Heckman  
1001 G Street, N.W.  
Suite 500 West  
Washington, D.C. 20001  
(202) 434-4100

Dated: June 11, 1992